

15. Can an employer cut an hourly paid employee's rate of pay?

Federal Law: Yes. The Fair Labor Standards Act only requires that an employer pay an employee at least the applicable minimum wage in non-overtime workweeks to nonexempt hourly employees.

State Law: In this instance, State law requires that an employer provide an employee with 30-day advance written notice of a reduction in wages and salary. Because State law is more stringent in this provision, State law would apply. This would not apply if an employee changes to a different position with different duties.

16. If an employer calls an employee back to work, does the employer have to pay the employee for a minimum number of hours (even if no work is performed)?

Federal Law: An employer is only required to pay an employee for the actual hours of work. Thus, if an employee is called back to work, and upon arriving is immediately sent home without performing any work, there is no minimum number of hours the employer is required to pay the employee.

State Law: Missouri regulations governing labor laws also requires that an employer is obligated only to compensate the employee for actual hours worked.

17. Can the employer deduct money from an employee's wages for cash register shortages, damage to equipment or uniforms?

Federal Law: Yes, only so long as the deduction does not cut into the current minimum wage. For example: if the employee's regular rate of pay is \$6.00 per hour, the employer may deduct up to .85 cents per hour until the shortage/damage is repaid. The employer is not required to ask the employee's permission to make this deduction under the Federal regulations.

State Law: The State of Missouri law is the same as Federal Law.

18. If an employer lends an employee money, gives a cash advance, or permits the employee to make purchases at the place of business, can the employer deduct the money from the employee's last paycheck?

Federal Law: Yes, see the answer to question #17.

State Law: Yes, see the answer to question #17.

19. Can an employer fire an employee even though the employee was out sick and brought in a doctor's note?

Federal Law: Yes and no. Under the Family Medical Leave Act (FMLA), if the employer has 50 or more employees within a 75-mile radius and if the employee has worked at least 12 full months for the employer and at least 1250 hours in the preceding 12 months, the employee may qualify for FMLA if the employee, employee's spouse, parent or child has a serious health condition. The employee may qualify for up to 12 weeks of job protected unpaid leave. Contact the Wage and Hour Division for additional information. If the employee is not eligible for FMLA, then no job protections would exist except for some provisions enforced by the Equal Employment Opportunity Commission under the Americans with Disability Act.

State Law: No such protections exist under State regulations. An employer can terminate the employment relationship at any time and for any reason as long as it is not discrimination under the Civil Rights Act.

20. How are back wages collected and what is the enforcement authority of each agency?

Federal Law: The U.S. Department of Labor, Wage and Hour Division's enforcement of FLSA is carried out by investigators as official authorized representatives of the Department. They conduct investigations and gather data on wages, hours, and other employment conditions or practices to bring an employer into compliance. As recovery remedies, Wage and Hour may supervise payment of back wages; the Secretary of Labor may bring suit for back wages; or, an employee may file a private suit for back wages. In most cases, a two-year statute of limitations applies to the recovery of back wages.

State Law: The Missouri minimum wage law does not apply to any individual who receives a minimum wage under the provisions of the FLSA, or any individual who is employed in any government position. The State of Missouri does not have a wage collection law authorizing the collection of wages. Any monies due an employee would have to be collected by civil action (private legal suit) in Small Claims Court if the amount claimed is under \$3,000 or by private legal counsel for a greater amount.

THE U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION DOES NOT ENFORCE THE PROVISIONS OF THE MISSOURI STATE LAWS; CONTACT THE MISSOURI DIVISION OF LABOR STANDARDS AT 1-800-475-2130 FOR ADDITIONAL INFORMATION REGARDING MISSOURI REGULATIONS.

FREQUENTLY ASKED WAGE AND HOUR QUESTIONS



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EMPLOYERS SHOULD COMPLY WITH THE MOST STRINGENT PROVISION OF FEDERAL OR STATE LAW. THIS BROCHURE IS FOR INFORMATIONAL PURPOSES ONLY.

1. Do employers have to give employees coffee or cigarette breaks or 30 minutes for a meal period?

Federal Law: There is no Federal law that requires or regulates whether employees receive a coffee or cigarette break. This is strictly between the employer, employee and, where applicable, the Union. Similarly, there is no requirement that an employer provide the employee with a 30 minutes meal break, however, if the employer does, the employee must be completely relieved of duty for the entire meal period in order for the employer to deduct it from the hours worked.

State Law: Missouri State law is the same. There is no requirement that employees receive a coffee or cigarette break or meal period.

2. Can an employer require an employee to work over 8 hours per day and/or more than 40 hours in a week?

Federal Law: Yes. The Fair Labor Standards Act does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work, including overtime hours, if the employee is at least 16 years old. Overtime compensation is not due after 8 hours of work per day, but rather after 40 hours of work per week. A workweek consists of any seven consecutive 24-hour days, as established by the employer.

State Law: The Missouri State law is the same as Federal law in that an employer may require an employee to work more than 8 hours per day and 40 hours per week. Likewise, the employer would incur no overtime liability unless the employee works over 40 hours in the workweek.

3. Does an employer have to pay vacation pay, holiday pay or severance pay?

Federal Law: No. These are benefits that are given at an employer's discretion and as such are not required or regulated by any Federal law except where the employer has entered into a Federal contract.

State Law: Missouri State law similarly does not require the payment of such benefits.

4. Is an employee required to give two weeks notice to the employer when they are leaving the company?

Federal Law: No, this is a matter between the employer and employee.

State Law: Missouri does not require an employee to give notice to the employer.

5. When does the employer have to pay final wages to a terminated employee?

Federal Law: Under the Fair Labor Standards Act the employer has until the regularly scheduled pay period to pay the employee.

State Law: The labor laws for Missouri require that when an employer terminates an employee the employer must pay all wages due at the time of termination. State law would apply.

6. Does an employer have to pay an employee overtime or double time for working on a holiday, Saturday or Sunday?

Federal Law: No, not unless the employee has now worked over 40 hours in the workweek. Overtime must be paid at a rate of at least one and one-half times the employee's regular rate of pay for each hour worked over 40 in the workweek.

State Law: Again, State law is the same as Federal law. Overtime is only due after 40 hours of work each workweek.

7. If an employee works 40 hours and gets 8 hours of holiday pay for 48 hours of pay due in the week, does the employer have to pay overtime for the hours over 40?

Federal Law: No. The employee did not physically work over 40 hours in the workweek. See also answer #6.

State Law: Missouri State law is the same as Federal law in this instance.

8. If an employee wants to work overtime and will accept straight time, can the employee waive his or her right to overtime pay?

Federal Law: No, the employee and the employer cannot mutually agree to violate the law. Nor can an employee voluntarily sign away his or her rights under the law.

State Law: State law in Missouri is the same as Federal law with regard to employee's hours and wages.

9. Can an employer give compensatory time off rather than pay overtime?

Federal Law: No, not unless the employer is a State or local government agency. Overtime compensation must be paid in the pay period in which it is worked.

State Law: Missouri also requires that overtime hours worked be paid in monetary compensation in the period in which it is earned.

10. Does an employer have to pay for work he did not request?

Federal Law: The definition of employ is "suffer or permit" to work. If the employer required or allowed the employee to perform work on his/her behalf then the employer is obligated to pay for the time. However, the employer has the right to reschedule the hours worked by an employee within the same workweek to prevent the hours from exceeding 40.

11. May an employer provide sick and vacation benefits to one group of employees but not others?

Federal Law: Yes. See answer #3. However, if the employer discriminates based upon age, race, sex, religion, national origin, etc. this may be an issue for resolution by the Equal Employment Opportunity Commission.

State Law: State regulations do not require an employer to provide paid benefits. Thus the Federal and State law are the same with regards to this matter.

12. Is an employee entitled to be paid for unused vacation pay at termination?

Federal Law: No, because vacation pay is not required or regulated by any federal law except as discussed in answer #3; it is a matter to be resolved between the employee and the employer.

State Law: The State of Missouri does not require payment of earned vacation time at the time of termination. However, the employee has the right to attempt recovery through the courts.

13. Does the employer have to give the employee a copy of his or her personnel records or time cards?

Federal Law: No, the records are the property of the employer.

State Law: Under Missouri's regulations, the employer maintains ownership and control of the records.

14. Does an employer have to furnish the employee with a statement of deductions?

Federal Law: There is no requirement under the FLSA for such a statement to be provided.

State Law: At least once a month an employer must furnish employees with a statement of deductions as part of a check or separate document. State law would apply.